



PROPOSED RULE MAKING (RCW 34.05.320)

CR-102 (7/22/01)
**Do NOT use for expedited
rule making**

Agency: Employment Security Department

- ☒ Preproposal Statement of Inquiry was filed as WSR 03-14-141 ; or
☐ Expedited Rule Making -- Proposed notice was filed as WSR _____; or
☐ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice
☐ Supplemental Notice
to WSR _____
☐ Continuance of WSR _____

(a) Title of rule: (Describe Subject) Unemployment insurance rules related to employer accounts, employer reporting requirements and penalties, conditions for relief of benefit charging, and charges to the separating employer.

Purpose: Chapter 4, Laws of 2003, 2nd Special Session (2ESB 6097) made substantive revisions to the unemployment insurance program. The proposed rules are intended to clarify the requirements of that legislation, define terms, and revise existing rules consistent with the amended statutes.

Other identifying information:

(b) Statutory authority for adoption: RCW 50.12.010, RCW 50.12.040, & RCW 50.12.042

Statute being implemented: Chapter 4, Laws of 2003, 2nd Special Session (2ESB 6097)

(c) Summary: Amends rules to define terms regarding ownership transfers, to clarify employer reporting requirements, and to specify the order in which employer payments will be applied. New provisions regarding penalties for employers filing late or incomplete tax returns are established. Clarifies the penalties for employers who knowingly misrepresent the amount of their payroll. Benefit charging rules are amended to clarify conditions for relief of charges and conditions under which all charges will be assessed against the separating employer.

Reasons supporting proposal: To provide clarity for employers, claimants, and staff regarding how the changes in the unemployment insurance benefits program will be administered, and to replace obsolete rules with language consistent with the amended statutes.

(d) Name of Agency Personnel Responsible for:	Office Location	Telephone
1. Drafting.....Juanita Myers	212 Maple Park, Olympia	(360) 902-9665
2. Implementation.... Annette Copeland	212 Maple Park, Olympia	(360) 902-9303
3. Enforcement..... Annette Copeland	212 Maple Park, Olympia	(360) 902-9303

(e) Name of proponent (person or organization): Employment Security Department

- ☐ Private
☐ Public
☒ Governmental

(f) Agency comments or recommendations, if any, as to statutory language, implementation, enforcement and fiscal matters:
None.

(g) Is rule necessary because of:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	If yes, ATTACH COPY OF TEXT Citation:
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	

(h) HEARING LOCATION:
Employment Security Department
Maple Leaf Conference Room, 2nd Floor
212 Maple Park Drive
Olympia, Washington

Date: July 14, 2004 Time: 1:30 p.m.

Assistance for persons with disabilities: Contact
Mary Mendoza by July 13, 2004

TDD (360) 902-9589 or (360) 9281

Submit written comments to:
Larry Oline, Acting Rules Coordinator
Employment Security Department
P.O. Box 9046
Olympia WA 98506
FAX (360) 438-3226 By (date) July 13, 2004

DATE OF INTENDED ADOPTION: July 23, 2004

CODE REVISER USE ONLY

NAME (TYPE OR PRINT)

Dr. Sylvia P. Mundy

SIGNATURE

TITLE

Commissioner

DATE

(j) Short explanation of rule, its purpose, and anticipated effects:

Rules in Chapter 192 WAC are amended or adopted to conform to 2ESB 6097, passed by the 2003 Legislature. The legislation made substantive changes in the laws governing employer taxes, reporting requirements, and penalties for employers who fail to comply with the reporting requirements or who knowingly misrepresent the amount of their payroll. The rules establish the range of penalties for employers to file untimely or incomplete reports. The rules further establish the reasonable audit expenses that will be assessed against an employer who is determined to have knowingly misrepresented the amount of his or her payroll.

2ESB 6097 modified the conditions under which employers may be eligible for relief of benefit charges, and established criteria outlining conditions in which certain employers may be charged for 100% of benefits paid on a claim. The rules further clarify how the department will assess benefit charges and grant relief of benefit charges.

The legislation and rules increase the penalties for employers who report untimely, incomplete, or inaccurate information. In some cases, employers will be charged for all benefits paid on a claim as opposed to their proportional share of base period wages.

Does proposal change existing rules? ☒ YES ☐ NO

If yes, describe changes:

The rules are amended to reflect the change in maximum penalty for filing late or incomplete reports from \$10 to \$250. The rules are also amended to reflect the new penalties for employers who knowingly misrepresent the amount of their payroll. The benefit charging rules are amended to comply with the changes included in the legislation.

(k) Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.
A copy of the statement may be obtained by writing to:

telephoning: ()
faxing: ()

☒ No. Explain why no statement was prepared

The rules will not impose more than minor costs on businesses in an industry or on small businesses in particular. Any costs associated with the changes to unemployment insurance taxes, reporting requirements, penalties, or benefit charging result from the legislation, not from the regulations implementing the legislative changes. As required by Chapter 43.05 RCW, the department will provide education and technical assistance to employers prior to imposing any penalty for filing late or incomplete reports.

(l) Does RCW 34.05.328 apply to this rule adoption? ☒ Yes ☐ No

Please explain: Violation of the requirements regarding timely and complete reports will subject the employer to a penalty fee as specified by rule.

A copy of the preliminary cost benefit analysis is available from Juanita Myers, Unemployment Insurance Rules Coordinator, at (360) 902-9665 or jmyers@esd.wa.gov.